

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

CORTEZ N. MEADOWS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-17-226-G
)	
CITY OF OKLAHOMA CITY et al.,)	
)	
Defendants.)	

ORDER

Now before the Court are (1) Plaintiff’s Motion requesting that the Court strike “any of the defendants[’] arguments that plaintiff was transporting an open container on March 26, 2016” (Doc. No. 64), and (2) Plaintiff’s Motion requesting that the Court strike certain facts asserted in Defendant City of Oklahoma City’s Motion for Summary Judgment (Doc. No. 73). Defendant Kristopher Gellenbeck and Defendant City of Oklahoma City both have filed responses to the first of these motions (Doc. Nos. 68, 69). Defendant City has filed a response to the second motion (Doc. No. 75).

Plaintiff cites Federal Rule of Civil Procedure 12(f) in support of each of his Motions to Strike. The Rule provides:

The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act:

- (1) on its own; or
- (2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading.

Fed. R. Civ. P. 12(f). Plaintiff argues, in both instances, that Defendants have made assertions that are “unsupported by evidence” and therefore constitute an “insufficient defense.” *See* Pl.’s Mot. to Strike (Doc. No. 64) at 2, 3; Pl.’s Mot. to Strike (Doc. No. 73) at 2, 9.

Plaintiff misunderstands the purpose and requirements of a Rule 12(f) motion to strike. *See Searcy v. Soc. Sec. Admin.*, No. 91-4181, 1992 WL 43490, at *2 (10th Cir. Mar. 2, 1992) (“[T]here is no provision in the Federal Rules of Civil Procedure for motions to strike motions and memoranda; only motions to strike unsigned papers under Rule 11, third-party claims under Rule 14(a), and certain matters in pleadings under Rule 12(f) are contemplated by the Federal Rules of Civil Procedure. Motions and memoranda are not included within the definition of ‘pleading’ under F.R.C.P. 7(a).”). Neither of Plaintiff’s Motions is directed to a pleading as defined by Federal Rule of Civil Procedure 7(a). If Plaintiff believes that a fact put forward by a Defendant in a motion or brief is irrelevant or is unsupported by evidence, Plaintiff may show as much by filing a response or reply brief citing legal authority or contrary evidentiary material. *See, e.g.*, Fed. R. Civ. P. 56(c)(1).

Accordingly, Plaintiff’s Motions to Strike (Doc. Nos. 64, 73) are DENIED.

IT IS SO ORDERED this 20th day of September, 2018.



CHARLES B. GOODWIN
United States District Judge